

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

TARENT BRYANT,

Plaintiff,

v.

SGT. WADE, *et al.*,

Defendants.

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CASE NO.: 1:10-CV-25 (WLS)

ORDER

Before the Court is a Report and Recommendation from United States Magistrate Judge Thomas Q. Langstaff, filed March 2, 2011. (Doc. 33). It is recommended that Defendants' Pre-Answer Motion to Dismiss (Doc. 19) be granted, due to the *pro se* prisoner Plaintiff's failure to exhaust administrative remedies prior to filing suit. (Doc. 33 at 8).

The fourteen-day objection period provided under 28 U.S.C. § 636(b)(1) expired on March 21, 2011, with application of the prisoner mailbox rule and the weekend rule. (*See* Doc. 33 at 8; Docket; Fed. R. Civ. P. 6(a)(1)(C), (d)). The Court finds that no objection was filed by the objection deadline. Although a "Motion On My Complaint Cont" – construed as a Motion to Go Forward with Complaint – was filed by Plaintiff on March 4, 2011 (Doc. 34), that document clearly indicates that it was executed and notarized on February 28, 2011 (Doc. 34 at 1, 3), which predates the filing of Judge Langstaff's March 2, 2011 Report and Recommendation (Doc. 33). Accordingly, the Motion to Go Forward with Complaint (Doc. 34) cannot be viewed as an Objection to the instant Report and Recommendation (Doc. 33). The Court, however, out of an abundance of caution, has reviewed the Motion to Go Forward with Complaint (Doc. 34) and finds that it does nothing more than parrot the assertions made in Plaintiff's Response to

Defendants' Pre-Answer Motion to Dismiss. (*Compare* Doc. 34 with Doc. 22). The Court therefore finds that Plaintiff's Motion to Go Forward with Complaint (Doc. 34), even if it could be construed as an Objection to a Report and Recommendation that was not entered until several days after its execution, fails to rebut the legally sound recommendation of Judge Langstaff and accordingly is **OVERRULED**.

Upon full review and consideration upon the record, the Court finds that Judge Langstaff's March 2, 2011 Report and Recommendation (Doc. 33) should be, and hereby is, **ACCEPTED, ADOPTED** and made the Order of this Court for reason of the findings made and reasons stated therein. Accordingly, Defendants' Pre-Answer Motion to Dismiss (Doc. 19) is **GRANTED**, and the above-captioned matter is **ORDERED DISMISSED**. Plaintiff's "Motion On My Complaint Cont" – construed as a Motion to Go Forward with Complaint (Doc. 34) – is **DENIED as moot**.

SO ORDERED, this 25th day of March, 2011.

/s/ W. Louis Sands
THE HONORABLE W. LOUIS SANDS,
UNITED STATES DISTRICT COURT